

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANK BRETT,
Plaintiff,

v.

HELEN, et al.,
Defendants.

Case No. [16-cv-03866-DMR](#)

**ORDER REASSIGNING CASE TO
DISTRICT JUDGE; REPORT AND
RECOMMENDATION TO DISMISS
CASE**

On July 8, 2016, pro se Plaintiff Frank Brett filed a motion for leave to proceed in forma pauperis (“IFP”). [Docket No. 2.] On July 19, 2016, the court issued an order finding the IFP application incomplete, and ordering Plaintiff to file a completed IFP application by July 29, 2016. [Docket No. 5.] The court warned Plaintiff that failure to file a completed IFP application by that date could result in denial of his application. *Id.* Plaintiff did not file a completed IFP application. On August 8, 2016, the court denied Plaintiff’s IFP application and ordered Plaintiff to pay the \$400.00 filing fee by no later than September 7, 2016. [Docket No. 7.] The court warned Plaintiff that failure to pay the filing fee by that date would result in dismissal of his action without prejudice. *Id.* Plaintiff did not pay the filing fee.

Accordingly, since Plaintiff has not yet filed a declination or consent to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c), the court issues this Report and Recommendation and reassigns this case to a district judge for final disposition, with the recommendation that Plaintiff’s complaint be dismissed without prejudice for failure to prosecute.

Any party may file objections to this report and recommendation with the district judge within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(a);

1 N.D. Cal. Civ. L.R. 72-2.

2 **IT IS SO ORDERED.**

3 Dated: September 13, 2016



4 Donna M. Ryu
5 United States Magistrate Judge

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United States District Court
Northern District of California

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 13, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Frank Brett
822 Johnston St.
Philadelphia, PA 19148

Dated: September 13, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
Ivy Lerma Garcia, Deputy Clerk to the
Honorable DONNA M. RYU